

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE PHILIPS RECALLED CPAP,	:	
BI-LEVEL PAP, AND MECHANICAL	:	Master Docket: Misc. No. 21-mc-1230-JFC
VENTILATOR PRODUCTS	:	
LITIGATION	:	MDL No. 3014
	:	
This Document Relates to: All Actions	:	
Asserting Economic Loss Claims	:	
	:	
	:	

**UNOPPOSED MOTION OF SETTLEMENT CLASS REPRESENTATIVES
FOR FINAL APPROVAL OF CLASS SETTLEMENT AGREEMENT
AND RELEASE OF ECONOMIC LOSS CLAIMS,
FINAL JUDGMENT, INJUNCTION AND ORDER OF DISMISSAL**

Settlement Class Representatives hereby respectfully move the Court for an Order to, among other things: (1) find that the Settlement is in full compliance with all requirements of the Federal Rules of Civil Procedure, the Class Action Fairness Act, the United States Constitution (including the Due Process Clause), and any other applicable law; (2) find that the Settlement was negotiated at arm's-length before the Court-appointed Settlement Mediator, Hon. Diane M. Welsh (Ret.); there was sufficient formal and informal discovery; the Parties and counsel were knowledgeable about the facts relevant to the Economic Loss Claims and potential risks of continued litigation of the Economic Loss Claims; and the Parties were represented by highly capable counsel with substantial experience in class action and products liability litigation; (3) find that the *Girsh* factors weigh in favor of approving the Settlement; (4) find that none of the objections to the Settlement is meritorious; (5) find that the dissemination of Notice as set forth in the Declaration of Steven Weisbrot regarding Compliance with Notice Plan (ECF No. 2657-1) was in compliance with the Court's October 10, 2023 Preliminary Approval Order, and that notice has been given in an adequate and sufficient manner, constitutes the best notice practicable under the

circumstances, and satisfies Federal Rule of Civil Procedure 23(e) and due process; (6) grant final class certification, pursuant to Fed. R. Civ. P. 23(a) and (b)(3), for settlement purposes only, of the Settlement Class that the Court conditionally certified in its October 10, 2023 Preliminary Approval Order; (7) confirm the appointment of Elizabeth Heilman; Ivy Creek of Tallapoosa LLC d/b/a/ Lake Martin Community Hospital; Peter Barrett; Julie Barrett; and ASEA/AFSCME Local 52 Health Benefits Trust as Settlement Class Representatives; (8) confirm the appointment of Settlement Class Counsel listed in paragraph 18 of the Court's October 10, 2023 Preliminary Approval Order; (9) grant final approval of the plan set forth in the Settlement Agreement for allocating Settlement funds as being fair, reasonable, adequate, and in the best interest of the Settlement Class; (10) grant the Settlement Class Representatives' Motion for Final Approval of Class Settlement of Economic Loss Claims; (11) dismiss the Economic Loss Complaint (ECF No. 785) and any other Economic Loss Claims as to all Released Parties, on the merits, with prejudice and, except as explicitly provided for in the Settlement Agreement, without costs; (12) enjoin Settlement Class Members and the other Releasing Parties from filing, commencing, maintaining, continuing, pursuing and/or prosecuting the Released Claims in any action, arbitration or other proceeding, whether pending or filed in the future, against Defendants and the other Released Parties; (13) approve the assignment of Economic Loss Claims by the Settlement Class Members against Ozone Cleaning Companies to Philips RS North America LLC, pursuant to the Settlement Agreement, including any proceeds Settlement Class Members would otherwise have been eligible for in any settlement with an Ozone Cleaning Company; (14) pursuant to the Settlement Agreement, enjoin the Philips Defendants and any successors to the Philips Defendants' rights or interests under the Settlement from challenging or opposing a Settlement Class Member's Medical Monitoring and Personal Injury Claims or ability to recover for those claims on the basis of the

Settlement, any payments under the Settlement, or the Releases provided therein, other than to prevent double recovery for economic losses related to the Recalled Devices or to prevent against the increase of an exemplary or punitive damages award on account of economic losses; and (15) retain continuing and exclusive jurisdiction over the Settlement Funds and the distribution of same to Eligible Settlement Class Members.

The Philips Defendants do not oppose this motion.

In further support of this Motion, Settlement Class Representatives are filing herewith the Brief in Support of Settlement Class Representatives' Motion for Final Approval of Amended Class Settlement Agreement and Release of Economic Loss Claims.

Settlement Class Representatives attach a proposed Final Approval Order as Exhibit "A" hereto.

Dated: March 21, 2024

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Respectfully submitted,

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Plaintiffs' Co-Liaison Counsel

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed via the Court's CM/ECF system on this 21st day of March 2024, and will be served to Counsel for Defendants via email.

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